**Court No. 3**

Criminal Revision No. 23 of 2003

Sushil Kumar
S/o late Ami Chand,
R/o Village Hassanpur,
Rampur Road,
P.S. Kotwali Dehat,
District Saharanpur ……..... Applicant

Vs.

State of Uttaranchal and others ……Opposite Parties

**Hon. Irshad Hussain, J.**

Heard learned counsel for the petitioner Sri Vivek Shukla and learned counsel for the respondents Sri Lok Pal Singh.

This revision is directed against the judgment order dated 11.02.2003 passed on a petition u/s 125(3) of the Cr. P.C. seeking enhancement of the maintenance allowance under the changed circumstances. Learned Judge, Family Court considered the evidence of the parties and enhanced the maintenance allowance to Rs. 2000/- per month which was payable with effect from 01.01.2003.

The petition is filed on the ground that enhancement is an arbitrary as being without taking into account the pay packet of the revisionist-husband. The learned counsel submitted that the revisionist is under obligation to look after his widowed mother and an unmarried sister. To controvert the argument learned counsel for the respondent-wife pointed out that the petitioner is getting pay of rupees more than 6000/- per month and therefore the revisionist shall have sufficient money to maintain himself, his mother and sister out of the amount retained after paying the maintenance allowance. Annexure-3 is the certificate of the S.S.P., Tehri Garhwal regarding the pay packet of the petitioner. After deductions the salary of the petitioner is Rs. 5,059/-. Considering this aspect the enhancement of maintenance allowance to Rs.

2000/- to the respondent-wife appear excessive. Taking into consideration the attending factors, it will be just and proper to reduce the maintenance to Rs. 1500/- per month and the petitioner deserve to be disposed of accordingly.

The revision is partly allowed and the impugned order dated 11.2.2003 is modified to the extent that the maintenance allowance payable to the respondent-wife shall be Rs. 1500/- ( one thousand five hundred) per month. The maintenance amount shall be payable with effect from 1.1.2003. The revisionist shall pay the arrears of the maintenance in three equal quarterly instalments, first of which shall fall due in the first week of January 2004 and thereafter other instalments shall fall due accordingly in the month of April 2004 and July 2004. However the maintenance allowance of current months shall be payable in the first week of every month. In default of any instalment, the entire arrears of maintenance allowance shall be recoverable in lump sum.

**(Irshad Hussain, J.)**

Dated 24.10.2003

ASWAL